

MT LEGISLATIVE HISTORY

Chapter 506 19 85

Bill H 323 S _____

Original bill & hist. C

H. Committee on Jud

S. Committee on Jud

Hearing Date(s) 2-~~4~~⁴ C

Hearing Date(s) 3-12 C

2-5 C

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Date Out 2-5 C

3-12 C

rpt 2-5

rpt 3/12

Did this bill originate in an interim committee? Yes No

Committee

Report

HOUSE FINAL STATUS

4/23 SIGNED BY SPEAKER
4/23 SIGNED BY PRESIDENT

4/24 TRANSMITTED TO GOVERNOR
5/06 SIGNED BY GOVERNOR
EFFECTIVE 5/6/85

HB 321 INTRODUCED BY PECK, HARBIN, RANEY
REVISE DEFINITION OF DEMAND AND TIME DEPOSITS
BY REQUEST OF DEPARTMENT OF COMMERCE

1/22 INTRODUCED
1/22 REFERRED TO BUSINESS & LABOR
2/01 HEARING
2/02 COMMITTEE REPORT-BILL PASS AS AMENDED
2/04 2ND READING PASS 97 0
2/05 3RD READING PASS 99 0

TRANSMITTED TO SENATE
2/07 REFERRED TO BUSINESS & INDUSTRY
3/05 HEARING
3/05 COMMITTEE REPORT-BILL CONCURRED
3/06 2ND READING CONCURRED 47 0
3/08 3RD READING CONCURRED 48 0

RETURNED TO HOUSE
3/14 SIGNED BY SPEAKER
3/14 SIGNED BY PRESIDENT

3/14 TRANSMITTED TO GOVERNOR
3/15 SIGNED BY GOVERNOR
CHAPTER NUMBER 75 EFFECTIVE DATE: 3/15/85

HB 322 INTRODUCED BY JACK MOORE, MERCER, COBB
ESTABLISHING A 20% SURTAX ON PROPERTY IN FOREIGN
OWNERSHIP

1/22 INTRODUCED
1/22 REFERRED TO TAXATION
1/23 FISCAL NOTE REQUESTED
1/28 FISCAL NOTE RECEIVED
2/06 HEARING
DIED IN COMMITTEE

HB 323 INTRODUCED BY JACK MOORE, SWIFT, ET AL.
CIVIL PENALTY FOR SHOPLIFTING

1/22 INTRODUCED
1/22 REFERRED TO JUDICIARY
2/04 HEARING
2/05 COMMITTEE REPORT-BILL PASS AS AMENDED
2/07 2ND READING PASS AS AMENDED 82 9
2/09 3RD READING PASS 89 11

TRANSMITTED TO SENATE
2/11 REFERRED TO JUDICIARY
3/12 HEARING
3/12 COMM REPORT-BILL CONCURRED AS AMENDED
3/14 2ND READING CONCURRED 45 0
3/16 3RD READING CONCURRED 45 2

HOUSE FINAL STATUS

	RETURNED TO HOUSE WITH AMENDMENTS		
4/04	2ND READING AMENDMENTS CONCURRED	92	0
4/05	3RD READING AMENDMENTS CONCURRED	91	2
4/12	SIGNED BY SPEAKER		
4/12	SIGNED BY PRESIDENT		
4/12	TRANSMITTED TO GOVERNOR		
4/16	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 506 EFFECTIVE DATE: 10/01/85		
HB 324	INTRODUCED BY GRADY, LANE, THOMAS, ET AL. TO PROVIDE BUSING IN UNSAFE LOCATIONS FOR PUPILS WITHIN 3 MILES OF SCHOOL		
	1/22	INTRODUCED	
	1/22	REFERRED TO EDUCATION & CULTURAL RESOURCES	
	1/23	FISCAL NOTE REQUESTED	
	1/29	FISCAL NOTE RECEIVED	
	2/08	HEARING	
	2/21	ADVERSE COMMITTEE REPORT	
	2/22	BILL KILLED	62 33
HB 325	INTRODUCED BY JACK MOORE, ERNST, ET AL. BONDS AUTHORIZED FOR ENGINEERING BUILDING AT MSU		
	1/22	INTRODUCED	
	1/22	REFERRED TO APPROPRIATIONS	
	1/23	FISCAL NOTE REQUESTED	
	1/28	FISCAL NOTE RECEIVED	
	3/12	HEARING	
		DIED IN COMMITTEE	
HB 326	INTRODUCED BY HANNAH STATE INCOME TAX BASED ON PERCENTAGE OF FEDERAL INCOME TAX		
	1/22	INTRODUCED	
	1/22	REFERRED TO TAXATION	
	1/23	FISCAL NOTE REQUESTED	
	1/28	FISCAL NOTE RECEIVED	
	2/13	HEARING	
		DIED IN COMMITTEE	
HB 327	INTRODUCED BY HANNAH ELIMINATING ROTATING OF CANDIDATES' NAMES ON BALLOT		
	1/22	INTRODUCED	
	1/22	REFERRED TO STATE ADMINISTRATION	
	2/05	HEARING	
	2/09	ADVERSE COMMITTEE REPORT	
	2/11	BILL KILLED	91 3
HB 328	INTRODUCED BY HANNAH SINGLE LOCAL BANK TO BID ON INTEREST PAID ON DEPOSITS OF PUBLIC FUND		
	1/22	INTRODUCED	
	1/22	REFERRED TO LOCAL GOVERNMENT	
	2/09	HEARING	

(To be kept current -- post bills when entering being heard or leaving committee.)

Form CS-32

STATUS SHEET

FORTY-NINTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB 276	1/19/85	2/14/85 2/15/85	2/15/85	2/15/85					
HB 286	1/19/85	1/24/85	1/24/85			1/24/85			
HB 310	1/22/85	2/4/85 2/5/85	2/5/85			2/5/85			
HB 313	1/22/85	2/11/85	(TABLED 2/11/85)						
HB 323	1/22/85	2/5/85 2/4/85	2/5/85			2/5/85			
HB 332	1/22/85	2/5/85	2/5/85			2/5/85			
HB 333	1/22/85	2/5/85	2/5/85	2/5/85					
HB 335	1/22/85	2/5/85	2/5/85			2/5/85			
HB 340	1/22/85	2/5/85	2/5/85			2/5/85			
HB 341	1/22/85	2/4/85 2/5/85	2/5/85			2/5/85			
HB 352	1/22/85	2/5/85	2/5/85	2/5/85					
HB 353	1/22/85	2/6/85	2/8/85	2/8/85					
HB 357	1/22/85	2/6/85 2/14/85	2/14/85		2/14/85 (AS AMENDED)				
HB 363	1/22/85	2/12/85 2/20/85	2/21/85		2/20/85	AS AMENDED			
HB 366	1/22/85	2/14/85 2/16/85	2/16/85		2/16/85				
HB 370	1/23/85	1/31/85	1/31/85		1/31/85				

Use a separate sheet for Senate, House Bills, and Resolutions

Rep. Montayne feels that the bill may be a little one-sided.

There being no further discussion, hearing closed on HB 341.

CONSIDERATION OF HOUSE BILL NO. 323: Rep. Jack K. Moore, sponsor of this bill, testified on its behalf. He said this bill will provide a civil penalty for shoplifting. The bill is very similar to the one that is now in effect in the state of Washington which he understands is very effective. The bill is divided into two parts which he reviewed with the committee.

Blake Wordahl, representing the Montana Hardware and Implement Association, testified on behalf of HB 323. He said that shoplifting is a major crime that retailers are faced with today. He believes that a civil penalty provision will provide another weapon to stop this crime.

George Allen, representing the Montana Retail Association, spoke in favor of this bill. He informed members that there is more merchandise lost in the United States through minor thefts and shoplifting than through major robberies. He feels that passage of this bill would provide a great deterrent to shoplifting.

Bob Likewise, representing the Montana Pharmaceutical Association, testified in support of the bill.

There being no further proponents, Chairman Hannah called the opponents to testify:

Jim Jensen, representing the Montana Magistrates Association, hesitantly opposes the bill. The part of the bill he, in particular, is opposed to deal with the minimum mandatory fines. He feels that passage of the bill may hinder a judge's discretion in particular cases.

There being no further opponents, Rep. Moore closed. He feels that there has to be some way to keep habitual shoplifters from committing a crime. He stated that a mere slap on the hand does not deter the crime of shoplifting.

Rep. Montayne stated his support for this bill and further asked if Mr. Allen has some statistics on amount of goods lost to retailers because of shoplifting. Mr. Allen did not have any figures.

Following further questions, hearing closed on HB 323.

Rep. Brown moved that HB 341 DO PASS AS AMENDED. The motion was seconded by Rep. Hammond and carried with Reps. Montayne and Miles dissenting.

ACTION ON HOUSE BILL NO. 323: Rep. Montayne moved that HB 323 DO PASS. The motion was seconded by Rep. Keyser and discussion followed.

Rep. Brown moved to amend this bill on page 1, line 17 by striking "less than \$100 or" and on page 2, line 2 by striking "less than \$100 or". The motion was seconded by Rep. Hammond. Rep. Brown feels the amount of the penalty would be left in the court's discretion. He doesn't feel there should be a mandatory penalty. The question was called and the motion to amend carried with Reps. Montayne, Hannah, Gould and Keyser dissenting.

Rep. Hannah moved to amend the bill on page 1, line 9 following "minor" by inserting ", as defined in 20-25-501,". The motion was seconded by Rep. Brown and passed unanimously.

Rep. Keyser moved that HB 323 DO PASS AS AMENDED. The motion was seconded by Rep. Brown. Rep. Rapp-Svrcek moved an amendment at this time on page 2, line 3, following \$200 by striking the rest of language in its entirety through line 7. The motion was seconded by Rep. Mercer and discussed. Rep. Rapp-Svrcek feels that public or private agencies should not be exempt from the responsibility of a child's actions.

Rep. Gould spoke against Rep. Rapp-Svrcek's amendment. He feels institutions certainly don't need this type of problem. He feels that the people who running group homes are working very hard to keep their kids in line.

Rep. Keyser said feels this amendment would place a big burden on the agencies.

Rep. Krueger made a substitute motion to strike subsection 2 in its entirety. The motion was seconded by Rep. Addy.

Rep. Montayne feels that the children's parents should be held responsible for their children's actions. This section just provides some "teeth" to the bill.

Rep. Hammond stated his opposition to Rep. Krueger's motion to amend. Rep. Miles also stated her opposition to the amendment. She feels that the parents are already held responsible for the actions of their children. She

feels the penalties as provided in the bill are too stiff.

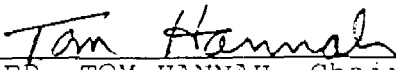
Rep. Krueger's substitute motion was voted on, and it failed 5-13. (See roll call vote.)

The question was called on Rep. Rapp-Svrcek's motion to amend. The motion to amend failed.

Rep. Eudaily moved to amend page 1, line 19 following "(2)" by striking "The parent or legal guardian having custody of" and inserting "When". Further, on page 1, line 20, strike "who" and page 1, line 25 after "thereof" insert ", the minor's parent or legal guardian having custody of the minor". The motion was seconded by Rep. Hammond. Rep. Eudaily feels the language as presently written is confusing, and that was the reason for his amendment. The motion carried unanimously.

Rep. Hammond again moved that HB 323 DO PASS AS AMENDED. The motion was seconded by Rep. Brown and carried with Reps. Addy, Miles and Rapp-Svrcek dissenting.

ADJOURN: A motion having been made by Rep. Keyser and having been seconded, the meeting adjourned at 11:45 a.m.



REP. TOM HANNAH, Chairman

STANDING COMMITTEE REPORT

February 5 19 95

page 1 of 2

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 323

FIRST reading copy (WHITE)
color

CIVIL PENALTY FOR SHOPLIFTING

Respectfully report as follows: That HOUSE Bill No. 323

be amended as follows:

1. Page 1, line 9.

Following: "minor"

Insert: ", as defined in 20-23-501;

2. Page 1, line 17.

Strike: "less than \$100 or"

3. Page 1, line 19.

Following: "(2)"

Strike: "The" through "of"

Insert: "When"

4. Page 1, line 20.

Strike: "who"

5. Page 1, line 25.

Following: "thereof"

DO PASS Insert: ", the minor's parent or legal guardian having
custody of the minor"

(continued)

.....February 5..... 19 85.....

page 2 of 2

6. Page 2, line 2.

Strike: "less than \$100 or"

AND AS AMENDED,
DO PASS

CHAIRMAN--MAZUREK, JOE

SECRETARY--STALEY, CINDY

NORMAL SCHEDULE==> SITE: OLD SUPREME COURT ROOM DAYS: M-TU-W-TH-F

TIME: 10:00 A.M.-12 NOON

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0310	2/11	3/11	3/19 3/20	CONCUR AS AMENDED		3/21
WALDRON, STEVE			ABUSED HOUSEHOLD MEMBERS TO OBTAIN SELF-HELP TEMPORARY RESTRAINING ORDER			
HB0323	2/11	3/12		CONCUR AS AMENDED		3/12
MOORE, JACK K.			CIVIL PENALTY FOR SHOPLIFTING			
HB0329	3/04	3/07		CONCUR AS AMENDED	JUDICIARY	3/7
HANNAH, TOM			REVISION OF MECHANICS' LIEN LAW RELATING TO SUPPLIERS AND SUBCONTRACTORS			
HB0329	3/07	3/26	3/26	TABLED		3/28
HANNAH, TOM			REVISION OF MECHANICS' LIEN LAW RELATING TO SUPPLIERS AND SUBCONTRACTORS			
HB0335	2/12	3/05		CONCUR AS AMENDED		3/5
BRADLEY, DOROTHY			ALLOW A COURT TO ORDER FORFEITED BAIL TO BE PAID AS RESTITUTION TO A VICTIM			
HB0340	2/12	3/13	3/20	CONCUR AS AMENDED		3/21
RAMIREZ, JACK			AMENDS LAWS ON DISPOSITION OF PROPERTY ABANDONED BY A TENANT AFTER VACATING			
HB0341	2/21	3/12		CONCUR AS AMENDED		3/21
MILLER, RON			CIVIL LIABILITY OF PERSON WHO STOPS PAYMENT ON CHECK, DRAFT, OR ORDER			
HB0352	2/11	3/12	3/12	CONCUR		3/12
NELSON, RICHARD M.			GIVING DIST. CRTS. JURISDICTION WITH JUSTICES' CRTS IN CERTAIN MISDEMEANORS			
HB0353	2/13	3/15	3/28	TABLED		3/15
NELSON, RICHARD M.			AGGRAVATED BURGLARY IF ENTER OCCUPIED STRUCTURE TO COMMIT AN OFFENSE			
HB0354	2/22	3/22		CONCUR AS AMENDED		3/23
BRANDIEWIE, RAY			ABOLISHING STATE LICENSING OF AIRPORTS AND AIR NAVIGATION FACILITIES			
HB0363	3/04	3/18	3/22	CONCUR AS AMENDED		3/23
MARKS, ROBERT L. (BOB)			LIMITING PUNITIVE DAMAGES IN CIVIL ACTIONS			

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PROPOSERS: None.

OPPOSERS: None.

ADDITIONAL TESTIMONY: Jim Jensen, representing the Montana Magistrates Association, spoke neither as a proponent nor as an opponent. He stated the justices are prepared and better trained to handle this than the district judges with the certification bill that came through this committee.

QUESTIONS FROM THE COMMITTEE: None.

CLOSING STATEMENT: None.

Hearing on HB 476 was closed.

FURTHER CONSIDERATION OF HB 341: Senator Towe suggested amending the bill by using the language "with the intent to defeat a possessory lien or otherwise defraud the payee of the check." He stated a possessory lien you obtain because you hold possession of it. If you persuade that person to give up possession for a check and then you cancel the check, he agrees the bill would be proper. Senator Mazurek stated he may have a genuine dispute as to the value of the services rendered. He may stop payment on it, not because he wants to defeat the lien, but because he challenges the amount owing. Senator Daniels stated his opinion is you are having no faith in the criminal law and now you are having a civil penalty. He did not feel the proposed amendment was as good as the original language.

CONSIDERATION OF HB 323: Representative Jack Moore, sponsor of the bill, testified this bill is patterned after the state of Washington. It is a civil penalty for shoplifting.

PROPOSERS: George Allen, representing the Montana Retail Association, spoke in support of the bill. He stated he would like to change this from shoplifting to theft. The public pays for shoplifting because the merchandiser must build it into the cost of doing business, so the business is subsidizing what is going on. He believes this problem is costing megabucks.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senator Towe asked if we were talking about three different things: the retail value of the goods; if there has been damage, another \$100 for the damage; and a penalty of not less than \$25 to \$200. Representative Moore replied that is not what he

intended. He intended the retail value of the goods plus a penalty. Senator Towe stated this amount is in addition to actual damages. You intended he receive the full value of the item but no additional damages but an additional penalty. Senator Towe went on to ask how you determine if it were \$25 or \$200 or in between. Representative Moore responded that would be up to the judge. Senator Towe asked if there would be criteria to determine that. Representative Moore replied no. Senator Mazurek asked if there were any discussion about holding the parents responsible. Representative Moore replied people thought it was a good form of parental control. It has worked well in Washington.

CLOSING STATEMENT: None.

Hearing on HB 323 was closed.

CONSIDERATION OF HB 579: Curt Chisholm, Deputy Director of the Department of Institutions, introduced the bill on behalf of Representative Cal Winslow, chief sponsor of the bill. Mr. Chisholm stated this bill was introduced at the request of the Department of Institutions to clarify and solve some problems. Warm Springs gets 400 voluntary admissions annually. What they will be doing is contacting the mental health center to determine if there is no other facility available. To his recollection, the section that is being eliminated has never been used. The primary motivating force is to have a professional person coordinate the activities to determine whether or not there are adequate facilities to deal with the person.

PROPOSERS: Dick Hruska, Director, Regional Mental Health Center in Great Falls, stated he was present at the request of Harold Gehrke. He stated the state council in its meeting in Helena supported the bill. David Briggs, Executive Director, Region IV Mental Health Center, stated the concept of screening admissions is a concept he has supported over the years. The two mental health centers that would be most affected are IV (Butte-Anaconda) and V (Missoula). There are approximately 400 voluntary admissions to Warm Springs each year. One-half come from Region IV. Of that 200 voluntary admissions, they are admitted by people who are not staff members of his mental health center. His mental health center has never had contact with them, and this would make them do so. The screenings will be done properly, professionally, and ethically. It is time they do not have to spare. There is no money tied to this bill. To request additional funds for this screening would not be appropriate. Region IV in particular is operating with waiting lists from 2-6 weeks. Most of the people they are seeing already are people that are trying to keep out of the state hospital. Having to go through the mental health centers will be extremely abrasive. They are concerned about confidentiality. Kelly Morrison, Director, Mental Disabilities Board of Visitors, supported the bill in its present form.

ACTION ON HB 323: Senator Pinsoneault suggested substituting value of the goods for actual damages. Senator Mazurek suggested striking "not to exceed \$1,000" and then adding "in addition to the retail value of the goods" below that. Senator Towe suggested leaving it alone and having three separate assessments or sue for the value of the goods and any actual damages plus an additional penalty to be measured by the value of the property not to exceed \$200. Senator Mazurek asked if the criminal law won't take care of it, will the civil law? Senator Pinsoneault commented as a practical matter, if he is subject to that much of a penalty, they are not imposing an additional \$25 or \$200 bucks. Senator Crippen moved the bill be amended as follows:

1. Page 1, line 16.
Following: "exceed"
Strike: "\$1,000"
Insert: "\$500"
2. Page 1, lines 17 and 18.
Following: "damages" on line 17
Strike: remainder of line 17 through "\$200" on line 18
3. Page 2, lines 3 and 4.
Following: "\$500" on line 3
Strike: remainder of line 3 through "\$200" on line 4

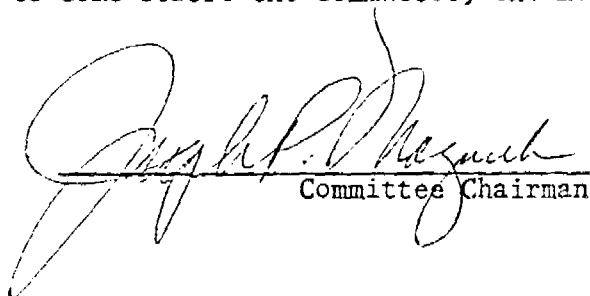
Senator Towe stated if the minor had funds of his own, you could sue the minor. You could also zap his parents for another \$500. Senator Yellowtail asked what the rationale was for the penalty for the parents. Senator Mazurek stated it relates to an emancipated minor versus an unemancipated minor. Senator Crippen asked why the minor's parents are responsible for the value of the goods. Senator Mazurek stated an existing statute applies to willful destruction of goods. Chairman Mazurek stated the effect of the amendment is an adult or an emancipated minor will be liable for a penalty of \$500 plus actual damages and a parent would be liable for the retail value not to exceed \$500. The motion carried unanimously. Senator Towe pointed out this is mandated, and there is no discretion. We are going to get this into a conference committee unless we add some language telling them what we are doing. Senator Towe moved HB 323 be amended as follows:

1. Page 1, line 15.
Following: "penalty,"
Insert: "whether or not the goods have been returned undamaged,"
2. Page 2, line 2.
Following: "penalty,"
Insert: ", whether or not the goods have been returned undamaged,"

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The motion carried unanimously. Senator Towe moved HB 323 be recommended BE CONCURRED IN AS AMENDED. He also pointed out one area the committee did not talk about was page 2, lines 10 and 11. The motion carried unanimously.

There being no further business to come before the committee, the meeting was adjourned at 12:07 p.m.



Committee Chairman

STANDING COMMITTEE REPORT

March 12 1935

MR. PRESIDENT

We, your committee on JUDICIARY
having had under consideration HOUSE BILL No. 323
third reading copy (blue)
color
(Senator Towe)

CIVIL PENALTY FOR SHOPLIFTING

Respectfully report as follows: That HOUSE BILL No. 323

be amended as follows:

1. Page 1, line 15.

Following: "penalty,"

Insert: "whether or not the goods have been returned undamaged,"

2. Page 1, line 16.

Following: "exceed"

Strike: "\$1,000"

Insert: "\$500"

3. Page 1, lines 17 and 18.

Following: "damages" on line 17

Strike: remainder of line 17 through "\$200" on line 18

4. Page 2, line 2.

Following: "penalty"

Insert: "whether or not the goods have been returned undamaged,"

5. Page 2, lines 3 and 4.

Following: "\$500" on line 3

Strike: remainder of line 3 through "\$200" on line 4

AND AS AMENDED

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXX~~

Senator Joe Mazurek

Chairman.